

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BARRY LINTON,	:
	:
Plaintiff	:
	:
v.	:
	:
NEW YORK LIFE INSURANCE AND ANNUITY	:
CORPORATION,	:
	C.A. No. 04-11362-RWZ
Defendant.	:
	:

NOTICE OF SUPPLEMENTAL AUTHORITY

In connection with this Court's consideration of the pending motions for summary judgment, the plaintiff respectfully advises the Court of the entry of an opinion rendered in *Prusky v. Reliastar Life Ins. Co.*, 2006 U.S. App. LEXIS 6864 (3d Cir. 2006), decided April 20, 2006, a copy of which is appended hereto. By this opinion, the summary judgment entered by the district court in favor of an insurer, which was one in a series of *Prusky* decisions cited by the parties herein, has been reversed by the Third Circuit, based, in part, upon the arguments similar to those advanced by the plaintiff herein.

BARRY LINTON,

By his attorneys,

/s/ P. Andy Henderson, Jr.
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April 25, 2006

Certificate of Service

I, P. Andy Henderson, Jr., an attorney with the law firm of Looney & Grossman LLP, hereby certify that on April 25, 2006, a copy of the foregoing **Notice of Supplemental Authority** filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non registered participants.

/s/ P. Andy Henderson, Jr._____

P. Andy Henderson, Jr., Esq.